

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
2 WAYNE STRUMPFER  
Deputy Commissioner  
3 ALAN S. WEINGER (CA BAR NO. 86717)  
Lead Corporations Counsel  
4 LINDA A. STELLA (CA BAR NO. 161903)  
Senior Corporations Counsel  
5 DEPARTMENT OF CORPORATIONS  
320 West 4<sup>th</sup> Street, Suite 750  
6 Los Angeles, California 90013-2344  
7 Telephone: (213) 576-7594  
8

9 Attorneys for Complainant

10  
11 BEFORE THE DEPARTMENT OF CORPORATIONS  
12 OF THE STATE OF CALIFORNIA  
13

14 In the Matter of	)	CASE NO.
	)	
15 THE CALIFORNIA CORPORATIONS	)	
16 COMMISSIONER,	)	ACCUSATION
	)	
17 Complainant,	)	
	)	
18 v.	)	
	)	
19 LYN J. FLANAGAN,	)	
	)	
20 Respondent.	)	
	)	
	)	

21  
22  
23 PRESTON DuFAUCHARD, the California Corporations Commissioner ("Commissioner")  
24 of the Department of Corporations ("Department") alleges and charges as follows:

25 **I. JURISDICTION AND VENUE**

26 1. The Commissioner brings this action to bar Respondent Lyn J. Flanagan, also known as  
27 Lyn Jeanne Flanagan, ("Flanagan") from any position of employment, management or control of any  
28 broker-dealer or investment adviser pursuant to Corporations Code section 25213.

2. The Commissioner is authorized to administer and enforce the provisions of the Corporate Securities Law of 1968, (Corp. Code, § 25000 et seq.) ("CSL") and the regulations thereunder (Cal. Code Regs., tit. 10, § 260.000 et seq.) ("CCR").

3. Flanagan's last known business address is 4478 Pebble Beach, Oceanside, CA 92057.

## II. STATEMENT OF FACTS

4. The Central Registration Depository ("CRD") records disclose that Flanagan (CRD # 2008612) was a registered representative with Commonwealth Equity Services, Inc., a registered broker-dealer, from July 1999 until December 2003.

5. In or about March 2004, Flanagan recommended a construction related investment to a California resident who was Flanagan's client while she was employed by Commonwealth Equity Services, Inc.

6. In or about March 2004, the California investor gave Flanagan two checks payable to "Lyn Falnagan" in the amount of \$9909.14 to purchase securities issued by Cole Collateralized Senior Notes II, LLC. In or about April 2004, the investor gave Flanagan an additional \$2000.00 in the form of a money order. Flanagan told the investor that she would receive 9% return on the investment in two years.

7. The investor received quarterly statements dated 6/30/04 and 9/30/04 detailing the purported investment with Cole Collateralized Senior Notes, II, LLC. The statements were on Cole Capital Partners, LLC letterhead with an address of 2555 Saddleback Road, P.O. Box 400, San Clemente, CA 93075.

8. When the investor stopped receiving statements, she contacted Cole Capital Partners, LLC and discovered that the company was located in Phoenix, Arizona. Cole Capital Partners, LLC did not issue the account statements. Further, there was no record of any purchase of Cole Collateralized Senior Notes and the investor had no accounts with any Cole entity.

9. Flanagan deposited the investor's money in her personal account and no securities were purchased on the investor's behalf.

1           10. Flanagan's employment with Commonwealth Equity Services, Inc. terminated on  
2 December 31, 2003. Flanagan was subsequently employed as a registered representative with ING  
3 Financial Partners, Inc., a registered broker-dealer, from August 2004 through May 15, 2005. In  
4 March 2004, at the time Flanagan supposedly offered and sold the securities issued by Cole  
5 Collateralized Senior Notes II, LLC to the California investor, Flanagan was not a registered  
6 representative with any licensed broker-dealer.

7           11. Flanagan has not applied for or received a certificate from the Commissioner to engage in  
8 business as a broker-dealer.

9           12. In connection with the offer and sale of securities issued by Cole Collateralized Senior  
10 Notes II, LLC, Flanagan made, or caused to be made, misrepresentations of material fact or omitted  
11 to state material facts necessary in order to make the statements made, in the light of the  
12 circumstances under which they were made, not misleading. These misrepresentations and  
13 omissions included, but are not limited to the following:

14           a. That the investor was investing in Cole Collateralized Senior Notes II, LLC when in fact  
15 Flanagan deposited the investor's money in her personal account and no securities were purchased  
16 on the investor's behalf;

17           b. Flanagan failed to disclose that her employment with Commonwealth Equity Services,  
18 Inc. terminated on December 31, 2003 and she was not registered with any licensed broker-dealer;

19           c. Flanagan failed to disclose that she was not authorized by the Cole Capital Partners, LLC  
20 or any other Cole entity to offer or sell any securities including Cole Collateralized Senior Notes.

21           13. On December 20, 2006, the Commissioner issued a desist and refrain order to Flanagan  
22 for acting as an unlicensed broker-dealer in violation of Corporations Code section 25210 and for  
23 making material misrepresentations and omissions in connection with the offer and sale of securities  
24 in violation of Corporations Code section 25401.

25           14. In or about October 2005, the NASD, formerly known as the National Association of  
26 Securities Dealers, Inc., began an investigation of this transaction and requested information and  
27 documents from Flanagan on several occasions.  
28

1           15. On or about March 28, 2006, the NASD suspended Flanagan from associating with any  
2 NASD member firm in any capacity because she failed to respond to the NASD requests for  
3 information.

4           16. On or about September 8, 2006, the NASD barred Flanagan from associating with any  
5 NASD member firm in any capacity.

6           **III. FLANAGAN SHOULD BE BARRED FROM ANY POSITION OF EMPLOYMENT,**  
7           **MANAGEMENT OR CONTROL OF ANY BROKER-DEALER OR INVESTMENT**  
8           **ADVISER PURSUANT TO CORPORATIONS CODE SECTION 25213**

9           17. Corporations Code Section 25213 provides:

10           The commissioner may, after appropriate notice and opportunity for hearing, by order  
11 censure, or suspend for a period not exceeding 12 months, or deny or bar from any  
12 position of employment, management or control of any broker-dealer or investment  
13 adviser, any officer, director, partner, agent, employee of, or person performing similar  
14 functions for, a broker-dealer, or any other person, if the commissioner finds that the  
15 censure, suspension, denial, or bar is in the public interest and that the person has  
16 committed any act or omission enumerated in subdivision (a), (e), (f), or (g) of Section  
17 25212 or has been convicted of, or pled nolo contendere to, any offense or held liable in  
18 any civil action specified in subdivision (b) of Section 25212, or is enjoined from any act,  
19 conduct or practice specified in subdivision (c) of Section 25212 or is subject to any  
20 order specified in subdivision (d) of Section 25212.

21           18. Corporations Code section 25212 provides, in pertinent part:

22           The commissioner may, after appropriate notice and opportunity for hearing, by order  
23 censure, deny a certificate to, or suspend for a period not exceeding 12 months or revoke  
24 the certificate of, any broker-dealer if the commissioner finds that the censure, denial,  
25 suspension, or revocation is in the public interest and that the broker-dealer, whether  
26 prior or subsequent to becoming a broker-dealer, or any partner, officer, director, or  
27 branch manager of the broker-dealer, whether prior or subsequent to becoming  
28 associated with the broker-dealer, or any person directly or indirectly controlling the  
broker-dealer, whether prior or subsequent to becoming such, or any agent employed by  
the broker-dealer while so employed has done any of the following:

...

- (d) Is or has been subject to (1) any order of the Securities and Exchange  
Commission or the securities administrator of any other state denying registration  
to, or revoking or suspending the registration of, the person as a broker, dealer,  
agent, or investment adviser, (2) *any order of any national securities association  
or national securities exchange (registered under the Securities Exchange Act of  
1934)<sup>1</sup> suspending or expelling that person from membership in the association or  
exchange or from association with any member thereof*, or (3) any other order of  
the commission or any administrator, association, or exchange referred to in this

subdivision which is or has been necessary for the protection of any investor.  
(emphasis added)

(e) Has willfully violated any provision of the Securities Act of 1933<sup>2</sup>, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940<sup>3</sup>, the Investment Company Act of 1940<sup>4</sup>, the Commodity Exchange Act, *or Title 4 (commencing with Section 25000)*, including the Franchise Investment Law, Division 5 (commencing with Section 31000), or the California Commodity Law of 1990, Division 4.5 (commencing with Section 29500), or any rule or regulation under any of those statutes, or any order of the commissioner which is or has been necessary for the protection of any investor. (emphasis added)

19. Flanagan is subject to orders specified in Corporations Code section 25212, subdivision

(d). On March 28, 2006, the NASD suspended Flanagan from associating with any NASD member firm in any capacity and on September 8, 2006, the NASD barred Flanagan from associating with any NASD member firm in any capacity.

20. Flanagan committed acts and omissions enumerated in Corporations Code section 25212, subdivision (e) by willfully violating Corporations Code section 25210 and 25401.

21. In March 2004, Flanagan offered and purportedly sold securities issued by Cole Collateralized Senior Notes II, LLC to a California investor. At this time, Flanagan was not a registered representative with any licensed broker-dealer and did not have a certificate issued by the Commissioner to engage in business as a broker-dealer. By engaging in unlicensed broker-dealer activity, Flanagan willfully violated Corporations Code section 25210.

22. In connection with the offer and purported sale of the securities, Flanagan made misrepresentations of material facts and omitted to state material facts as set forth above in paragraph 12. These misrepresentations and omissions of material facts constitute willful violations of Corporations Code section 25401.

23. Therefore, cause exists to bar Flanagan from any position of employment, management or control of any broker-dealer or investment adviser pursuant to Corporations Code section 25213.

///

///

///

///

**IV. RELIEF REQUESTED**

WHEREFORE, based upon the foregoing, the Commissioner finds it is in the public interest to bar Lyn J. Flanagan, also known as Lyn Jeanne Flanagan, from any position of employment, management or control of any broker-dealer or investment adviser pursuant to Corporations Code section 25213.

WHEREFORE, IT IS PRAYED that Respondent Lyn J. Flanagan, also known as Lyn Jeanne Flanagan, be barred from any position of employment, management or control of any broker-dealer or investment adviser pursuant to Corporations Code section 25213 because she is subject to orders specified in Corporations Code section 25212, subdivision (d) and has committed acts and omissions enumerated in Corporations Code section 25212, subdivision (e).

Dated: December 21, 2006

PRESTON DuFAUCHARD  
California Corporations Commissioner

By: \_\_\_\_\_  
Linda A. Stella  
Senior Corporations Counsel  
Enforcement Division